

Wisconsin State Legislature

SENATE CHAIR
ALBERTA DARLING

317 East, State Capitol
P.O. Box 7882
Madison, WI 53707-7882
Phone: (608) 266-5830



ASSEMBLY CHAIR
ROBIN VOS

309 East, State Capitol
P.O. Box 8593
Madison, WI 53708-8953
Phone: (608) 266-9171

Joint Committee on Finance *100TH ANNIVERSARY 1911 - 2011*

MEMORANDUM

To: Members
Joint Committee on Finance

From: Senator Alberta Darling
Representative Robin Vos

Date: October 20, 2011

Re: 14-Day Passive Review Approval – UW System

Pursuant to s. 36.11(53), Stats., attached is a 14-day passive review request from the University of Wisconsin System, received on October 20, 2011.

Please review the material and notify **Senator Darling** or **Representative Vos** no later than **Tuesday, November 8, 2011** if you have any concerns about the request or if you would like the Committee to meet formally to consider it.

Also, please contact us if you need further information.

Attachments

AB:RV:jm

RECEIVED
OCT 20 2011
BY: *St. Finance*

UNIVERSITY OF WISCONSIN SYSTEM
PROCEDURES FOR THE DESIGN AND CONSTRUCTION
OF GIFT AND GRANT FUNDED PROJECTS UNDER \$500,000

1. Definition:

"University" means the University of Wisconsin System Administration, or an institution of the UW System to which a project is delegated.

2. Board of Regents Approval:

2.1 The project scope and budget will be presented to the Capital Planning and Budget Committee, and if approved, the full board, for final authority to construct the project.

2.2 Prior to issuing contracts, a responsible university officer shall certify that there are sufficient gift funds to finance the project.

3. Construction Project Bids and Contracts:

3.1 The university shall let by contract, to the lowest qualified responsible bidder, all construction work except as permitted in sub. 3.9. As permitted under Wis. Stats. 16.855 (2), projects under \$50,000 may use a simplified bid process of soliciting bids.

3.2 The university shall:

- (a) Advertise for proposals by publication of a class 1 notice, under ch. 985, in the official state newspaper. Similar notices may be placed in publications likely to inform potential bidders of the project. The university may solicit bids from qualified contractors to insure adequate competition. All advertisements shall contain the following information:
 - 1. Location of work and the name of UW System institution.
 - 2. Scope of the work.
 - 3. Amount of bid guarantee required.
 - 4. Date, time and place of bid opening.
 - 5. Date and place where plans will be available.
- (b) Require that a guarantee of not less than 10 percent of the amount of the bid shall be included with each bid submitted guaranteeing the execution of the contract within 10 days of offering, if offered within 30 days after the date set for the opening thereof. The parties may agree to extend the time for offering of the contract beyond 30 days after the opening of bids. If the federal government participates in a state project, the bid guarantee required in this paragraph controls, unless the federal government makes a specific provision for a different bid guarantee.
- (c) The university shall require performance and payment bonds by the contractors in a cumulative amount equal to 100% of the cost of the construction project.

- (d) Publicly open and read aloud, at the time and place specified in the notice, all bids. Within a reasonable time after opening, tabulations of all bids received shall be available for public inspection.
 - (e) Not allow or make any correction or alteration of a bid, except as provided in sub. 3.6.
- 3.3 At any time prior to the published time of opening, a bid may be withdrawn on written request submitted to the university by the bidder or the bidder's agent, without prejudice to the right of the bidder to file a new bid.
- 3.4 If a bid contains an error, omission or mistake, the bidder may limit liability to the amount of the bidder's bid guarantee by giving written notice to the university within 72 hours of the bid opening, of intent not to execute the contract. The UW System, with the approval of the attorney general, may settle and dispose of cases and issues arising under this subsection. However, if no such settlement is obtained, the bidder is not entitled to recover the bid guarantee unless the bidder proves in the circuit court for Dane County that in making the mistake, error or omission the bidder was free from negligence.
- 3.5 Any or all bids may be rejected if, in the opinion of the university, it is in the best interest of the university. The reasons for rejection shall be given to the bidder or bidders in writing.
- 3.6 Nothing contained in this section shall prevent the university from negotiating deductive changes in the lowest qualified bid.
- 3.7 The university may issue contract change orders if in their best interest, however a change order may not cause the total project cost to exceed \$500,000
- 3.8 When the university believes that it is in the best interests of the university to contract for certain articles or materials available from only one source, it may contract for said articles or materials without the usual statutory procedure, after a publication of a class 1 notice, under ch. 985, in the official state newspaper.
- 3.9 The project design shall conform to State of Wisconsin energy usage requirements.
- 3.10 The university may use the "design-build" means of project delivery in which a firm or corporation is selected to act as a builder for a project; to provide all design and construction services to complete the project per the approved project scope, cost and schedule.

The UW System president or his/her designee may permit the use of design-build contracting if he/she determines some or all of the following project criteria apply:

- (a) The project involves the construction of a structure that is simple in design and one for which an accurate budget estimate can be developed.

- (b) The project involves the construction of a structure that is a common building type and likely to attract proposals from enough firms to ensure adequate competition in the selection of a design build firm.
- (c) The project goals can best be achieved with a pre-designed building.
- (d) A publicly competitive qualifications and cost-based selection process will be used to retain design-build contractors.
- (e) The selection committee will be composed of university employees who are familiar with the scope and program of the project; two of whom shall be appointed by the President of the University of Wisconsin System or his or her designee, one of whom shall serve as chairperson; and three of whom shall be appointed by the chancellor, or his/her designee, of the institution for which the project will be constructed. Two of the members shall be registered architects, landscape architects, or professional engineers. Each committee member shall have one vote.

4. General Provisions:

- 4.1 The university may award any contract to a minority business, a disabled veteran-owned business, or a woman-owned business as certified by a governmental entity, that submits a qualified responsible bid that is no more than five percent higher than the apparent low bid. The UW System shall maintain and biennially publish data on contracts awarded under this paragraph. An award may not cause the total project cost to exceed \$500,000.
- 4.2 The prime contractor shall:
 - (a) submit a list of the major subcontractors along with their bid,
 - (b) submit pay requests within a specified time frame (30 days) and pay subcontractors promptly (within 15 days of receipt of payment)
 - (c) pay out retainage when subcontractor work is completed to the satisfaction of the construction representative/project manager on the project.
- 4.3 Changes may be made in the list of subcontractors, with the agreement of the university and the prime contractor. Allowable reasons to change the list of subcontractors include:
 - 1. A business failure;
 - 2. Failure to secure bonding or insurance;
 - 3. Inability to meet contractor qualifications;
 - 4. Refusal to execute the contract; or
 - 5. Other reasons deemed to be in the best interest of the State.
- 4.4 As the work progresses under any contract for construction the university, from time to time, shall grant to the contractor an estimate of the amount and proportionate value of the work done, which shall entitle the contractor to receive the amount thereof, less the retainage, from the proper fund.

- (a) The retainage shall be an amount equal to not more than ten percent of the construction contract until 50 percent of the work has been completed.
- (b) At 50 percent completion, an amount not to exceed five percent shall be retained, and partial payments shall be made in full to the contractor unless the architect or engineer certifies that the job is not proceeding satisfactorily. At 50 percent completion or any time thereafter when the progress of the work is not satisfactory, additional amounts may be retained but in no event shall the total retainage be more than ten percent of the value of the work completed.
- (c) Upon final completion of the work, all amounts retained will be paid to the contractor.

4.5 The university institution for which the project is being constructed will be responsible for all construction administration, including construction supervision.

4.6 The university shall report to the Building Commission on the projects authorized by these procedures:

1. After the project bids; and
2. When the project is completed.